

ENTERED

October 11, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**BENNY HEBERT,
"Plaintiff,"

v.

BOBBY LUMPKIN,
"Defendant."§
§
§
§
§
§
§

Civil Action No. 1:22-cv-00116

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the "Magistrate Judge's Amended Report and Recommendation" ("R&R") (Dkt. No. 38). The R&R recommends this Court (1) dismiss with prejudice Plaintiff's 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus; (2) direct the Clerk of the Court to close this case; and (3) decline to issue a certificate of appealability. Dkt. No. 38 at 1.

Objections were due September 22, 2023. No objections were filed by either party. If there have been no objections to the magistrate's ruling, then the appropriate standard of review is "clearly erroneous, abuse of discretion and contrary to law." *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R (Dkt. No. 38) is **ADOPTED**.

Plaintiff's claims against Defendant are **DISMISSED with prejudice**. The Clerk of the Court is **ORDERED** to close this case. The Court **DECLINES** to issue a certificate of appealability.

Signed on this 11th day of October, 2023.



Rolando Olvera
United States District Judge